Murray-Aynsley C.J.: — This appeal concerns the interpretation of section 13 (1) (g) of the Income Tax Ordinance (No. 39 of 1947).

The facts are set out in the case stated by the Commissioners.

The provision exempts from taxation the income of any charitable institution or of any body of persons or trust established for charitable purposes only.

Here the appellants draw a large income from property of which a portion has to be paid for charitable purposes. It seems to me that the word "trust" means some persons natural or juristic who have an income and who can be assessed. When they come within the scope of the provision all their income is exempted. I do not think that the appellants who are trustees for purpose of the trust generally and who have an income part of which is devoted to charitable purposes come within the scope of the provision.

Until the trustees make a payment out of funds in their hands it is impossible that any particular part of their income is devoted to charitable purposes.

We are not concerned directly with the proviso but I think that it sheds light on the meaning of the word "trust". It appears that the legislature contemplated something of the type of which the Singapore Improvement Trust is an example.

In the circumstances I dismissed the appeal with costs.

Appeal dismissed.

Solicitors for the appellant: *Allen & Gledhill.*

ONG ENG GUAN v. PUBLIC PROSECUTOR

[A. Cr. J. (Wilson J.) October 3, 1955]

[K. L. — Criminal Appeal No. 64 of 1955]

Penal Code s. 448 — House trespass with intent to annoy — Necessity to prove intent to annoy.

The appellant in this case was an employee of the Singer Sewing Machine Co. The complainant had bought a sewing machine on hire purchase and had paid over two-thirds of the value of the machine. As however he was late in paying the balance of the instalments the company decided to take possession of the machine. On April 14, 1955 the appellant and two of his friends went to the house of the complainant to collect the instalments due or alternatively to remove the machine. They entered the house and a discussion took place as to payment of the instalments. As no agreement was reached the appellant went to a room where the machine was kept, dragged it and took it away. The appellant was subsequently charged and convicted under s. 448 of the Penal Code of the offence of house trespass with intent to annoy the complainant.

Held: there was no evidence in this case that the appellant had an intention to annoy the complainant, even though he may have succeeded in fact in doing so and therefore the conviction must be quashed.

MAGISTRATE'S CRIMINAL APPEAL.

R. H. V. Rintoul for the appellant.

M. M. Hashim (Federal Counsel) for the respondent.

Wilson J.: — The appellant was charged with an offence contrary to Section 448 of the Penal Code. The learned Magistrate was of opinion that the action of the appellant constituted annoyance to the complainant and that, therefore, the charge was proved.

The point is not whether he annoyed the complainant, which I have no doubt he did, but whether, when he entered the property in the possession of the complainant, he intended to annoy him, or, having entered the property, whether he unlawfully remained there with intent to annoy.

On the facts of this case I could find no evidence that the appellant ever had an intention to annoy, even though he may have succeeded in fact in doing so.

I allowed the appeal and quashed the conviction and cancelled the order binding over the appellant to be of good behaviour for six months, or in default three months' imprisonment.

Appeal allowed.

Solicitors for the appellant: *Shearn, Delamore & Co.*